IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 224 of 2004

Fateh Singh S/o Sri Harnam Singh
R/o Landour Bazar, Mussoorie
District Dehradun
At present residing at House No. 531 Indra Nagar
Basant Vihar,
Police Station-Kotwali, Dehradun ... Petitioner

Vs

1. State of Uttaranchal
2. Judge, Prevention of Corruption Act/
   IInd Fast Track Court, Nainital
3. Virendra Kumar Jain
   S/o Late Sri Gopi Chandra Jain
   R/o T-10 Green Park Extension
   New Delhi – 110 016 ...Respondents

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed for seeking the relief to quash the proceeding in Special Trial No. 1 of 2003 State Vs Indramani Verma & another under Section 13(2) & 7/8 of Prevention of Corruption Act pending in the court of Judge, Prevention of Corruption Act/IInd Fast Track Court, Nainital.

2. Brief facts of the case are that the First Information Report was lodged by the respondent No. 3 – Virendra Kumar Jain against the Inspector – Om Prakash Bhati, Sub-Inspector Indramani Verma and the petitioiner – Fateh Singh, stating therein that the complainant had invested money in Rockland Group of Companies as that company was involved in certain financial scandals, therefore, the enquiry was conducted by the police in this regard and in this connection one Inspector – Om Prakash Bhati, Sub-Inspector – Indramani Verma and the petitioner – Fateh Singh approached respondent No. 3 – Virendra Kumar Jain through Manoj Bhalla and asked the

respondent No. 3 to make the payment of Rs. 20 lacs for pacifying the matter. The deal was completed for Rs. 1.50 lacs. Sub-Inspector – Indramani Verma collected Rs. 50,000/- from the respondent No. 3 while the petitioner collected rest of the amount i.e. Rs. 1.00 lacs. It is alleged that this amount was paid by the respondent No. 3 to the petitioner and Sub-Inspector – Indramani Verma for exonerating the respondent No. 3 from the enquiry.

3. On the First Information Report, the matter was enquired by the Enquiry Officer – Rajesh Kumar – Assistant Superintendent of Police, Saharanpur who submitted his report on 26.02.1999. The enquiry report reveals that it was the petitioner who collected Rs. 1.00 lacs from the respondent No. 3 in order to handover the same to Inspector – Om Prakash Bhati.

4. As the case under the Prevention of Corruption Act proceeded against the petitioner, therefore, he filed the petition for quashing the proceedings of the Special Trial No. 1 of 2003 State Vs Indramani Verma & another under Section 13)2) & 7/8 of Prevention of Corruption Act pending in the court of Judge, Prevention of Corruption Act/IInd Fast Track Court, Nainital.

5. Heard Sri Sudhir Singh, learned counsel for the petitioner, Sri Lalit Verma, learned A.G.A. and perused the record.

6. Leaned counsel for the petitioner has firstly argued that the case under the Prevention of Corruption Act is not made out against the petitioner in view of the Provision of Section 7/8 of the Prevention of Corruption Act.

7. I fail to appreciate the arguments advanced by the learned counsel for the petitioner as Section 8 of the Prevention of Corruption Act is very clear that *"Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant, whether named or otherwise, to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavor to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall be liable to fine."*

8. In view of the aforesaid provision, it is quite clear from the material available on record that the petitioner took gratification from respondent No. 3 by corrupt or illegal means to influence a public servant.

9. Learned counsel for the petitioner has also submitted that Inspector – Om Prakash Bhati on whose behalf it is alleged that the gratification was taken has been exonerated from the charge as no chargesheet has been submitted against him.

10. Again, I do not find any force in this arguments advanced by the learned counsel for the petitioner. In case, if

Om Prakash Bhati – Inspector has been exonerated from the charge under the Prevention of Corruption Act and the chargesheet consequently has not been filed against him, this situation is not going to make any change in the case of the petitioner.

11. This Court is not supposed to embark upon an enquiry with regard to the credibility of the evidence at this stage while exercising the jurisdiction under Section 482 Cr.P.C.

12. I am not supposed to act as a trial judge, specially when the evidence is yet to be collected by the trial court and any judgment rendered by me would amount to a premature decision in this case.

13. I therefore, do not find any force in this petition. The petition lacks merit and is liable to be dismissed.

14. Accordingly the petition filed under Section 482 Cr.P.C. is dismissed.

15. The stay order dated 18.05.2004 passed by this Court stands vacated.

(B.C. Kandpal, J.)

11.07.2006
ASWAL